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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/667,983 09/22/00 ZAYATZ

R 04645,0664

MM91/1003

EXAMINER

R KENT ROBERTS
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SUITE 2000
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BUFFALO NY 14203-2391

DINH, T

ART UNIT

PAPER NUMBER

2841

DATE MAILED:

10/03/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary	Application No.	Applicant(s)
	09/667,983	ZAYATZ, ROBERT
	Examiner Tuan T Dinh	Art Unit 2841

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 22 September 2000.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-7 and 9-20 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-7 and 9-20 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
 If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>2-3</u>	6) <input type="checkbox"/> Other: _____

DETAILED ACTION

Claim Objections

Claim 8 is missing in an application.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 6 and 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 6 and 7, line 2, it is unclear. Is there more than one sheet contained in a protection device?

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-4, 7, 9-14, 16-17, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alexandres et al (U. S. Patent 5,521,021) in view of Pearce et al. (U. S. Patent 4,004,199).

Regarding claims 1, 9, and 17, Alexandres discloses a power device and a method as shown in figures 1-3 comprising:

a protective housing (46, column 2, line 62), a sleeve (66, column 3, line 9) and terminal cap (36, column 2, line 49);

said protective housing having a base (50, column 2, line 63) with a contact hole (24) and having a projecting perimeter wall (52) extending from the base (50);

said sleeve (66) joined to the perimeter wall; and

said terminal cap (36) between said sleeve and said protective housing. Alexandres does not show an electrical component permitted to reside between and be protected by the housing and the terminal cap.

Pearce teaches a protection device having an electrical component (18-figure 3, column 5, line 1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify of Alexandres to provide an electrical component as taught by Pearce in order to make an electrical contact and operate the protecting device.

Regarding claims 2, and 10-11, Alexandres discloses the protection device an orifice (34-figure 1, column 2, line 47) for receiving a projection on a support surface which supports the base..

Regarding claims 3-4 and 13-14, Alexandres discloses the protection housing as shown in figures 1-3 further including a means for fastening is a tinneman fastener (56-figure 1) joined to the base and an electrical terminal pin (54).

Regarding claims 7,16, and 20, Alexandres the protection device and the method as shown in figures 1-3 further comprising a sheet (26) between the base (50) and a battery (14-figure 1).

Claims 5-6, 15, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alexandres in view of Pearce et al. (U. S. Patent 4,004,199) and further in view Herhberger et al. (U. S. Patent 5,977,746).

As best understood, Alexandres and Pearce disclosed the claimed invention as discussed above except for an adhesive on the base. Herhberger discloses an adhesive 75, see figure 3.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the protection device of Alexandres and Pearce to provide an adhesive as taught by Herhberger in order to secure and hold the cell together.

Regarding claims 18-19, the methods steps are necessitated by the device structure as it is discloses by Alexandres in view of, Pearce and Herhberger.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Dean et al. discloses related art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan T Dinh whose telephone number is 703-306-5856. The examiner can normally be reached on M-F.

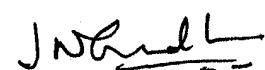
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Gaffin can be reached on 703-308-3301. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-3431 for regular communications and 703-308-3431 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

TD
September 30, 2001



Jayprakash N. Gandhi
Primary Examiner
Technology Center 2800